



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/098,544	03/18/2002	Takashi Morita	P21670	4952
7055	7590	12/29/2003	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			PHAN, JAMES	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/098,544	MORITA, TAKASHI	
	Examiner James Phan	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 and 6 is/are withdrawn from consideration.
- 5) Claim(s) 5 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 March 2002 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) Interview Summary (PTO-413) Paper No(s). _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of the species (1) having the structure disclosed in Fig. 10 and defined in claim 5 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that (A) the examiner has not shown that the invention are independent or distinct; and that (B) the examiner has not shown that there would be a serious burden on the examiner if all claims were examined together. This is not found persuasive because

(A) Each of the species is patentably distinct from each other. The following examples illustrate that the species are mutually exclusive:

(I) While the elected species (1) defined in claim 5 requires a scanner which has "a device for rotating said rotatable member about said rotational axis, said device comprising a radial slot formed on said rotatable member to extend in a radial direction thereof and a rotating tool engageable with said rotatable member to rotate said rotatable member about said rotational axis, wherein said tool comprises an engaging pin engageable with said radial slot, an axis of said engaging pin deviating from a rotational axis of said rotating tool" (claim 5, last two paragraphs), the non-elected species (2)-(4) defined in claims 1-4 and 6 do not;

(II) While the non-elected species (3) defined in claim 1 requires a scanner which has a rotatable member positioned in a recess formed on an outer surface of a housing (claim 1, lines 10-12), "a device for adjusting rotational position of said rotatable member about said rotational axis; wherein a through hole through which said optical

member is inserted in said housing is formed at the bottom of said recess, and said optical member is inserted into said housing through said through hole" (claim 1, last two paragraphs), the elected species (1) defined in claim 5 does not;

(III) While the non-elected species (2) defined in claims 2-4 require a scanner which has a rotatable member positioned in a recess formed on an outer surface of a housing (claim 2, lines 10-12), "an adjusting device for adjusting rotational position of said rotatable member about said rotational axis and comprising a member, fixed to said housing, that presses said rotatable member against the bottom of said recess" (claim 2, last paragraph), the elected species (1) defined in claim 5 does not; and

(IV) While the non-elected species (4) defined in claim 6 requires a scanner which has "a device for rotating said rotatable member about said rotational axis, said device comprising a circumferential gear formed on an outer peripheral surface of said rotatable member and a rotating tool engageable with said rotatable member to rotate said rotatable member about said rotational axis, said rotating tool comprising a pinion gear which is engaged with said circumferential gear", the elected species (1) defined in claim 5 does not. And

(B) At least a separate search is required for each of the patentably distinct feature recited in each of the patentably distinct species discussed above; and thus, a serious burden would impose on the examiner if all claims were examined together.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-4 and 6 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Allowable Subject Matter

Claim 5 is allowed.

The following is an examiner's statement of reasons for allowance: none of the cited prior art teaches or suggests a scanner having the structure specified in claim 5; specifically, "said device comprising a radial slot formed on said rotatable member to extend in a radial direction thereof and a rotating tool engageable with said rotatable member to rotate said rotatable member about said rotational axis, wherein said tool comprises an engaging pin engageable with said radial slot, an axis of said engaging pin deviating from a rotational axis of said rotating tool" (claim 5, last two paragraphs).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

This application is in condition for allowance except for the presence of claims 1-4 and 6 to an invention non-elected with traverse in Paper No. 6. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take

Art Unit: 2872

action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Phan whose telephone number is (703) 308-4810. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (703) 305-0024. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Phan, J.
Dec. 24, 2004


James Phan
Primary Examiner